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NOV 22 1993

CLERK US DISTRICT COURT
DISTRICT OF ARIZONA
BY /s/ D. Lucas DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

In the matter of

THE CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN

GENERAL ORDER 98-29

Pursuant to the Civil Justice Reform Act of 1990, the United States District Court for the District of Arizona hereby adopts and implements this Civil Justice Expense and Delay Reduction Plan (“Plan”), pursuant to Title 28, United States Code, Section 471, et seq..

IT IS ORDERED that said Plan attached hereto shall be implemented throughout the District of Arizona, effective December 1, 1993.

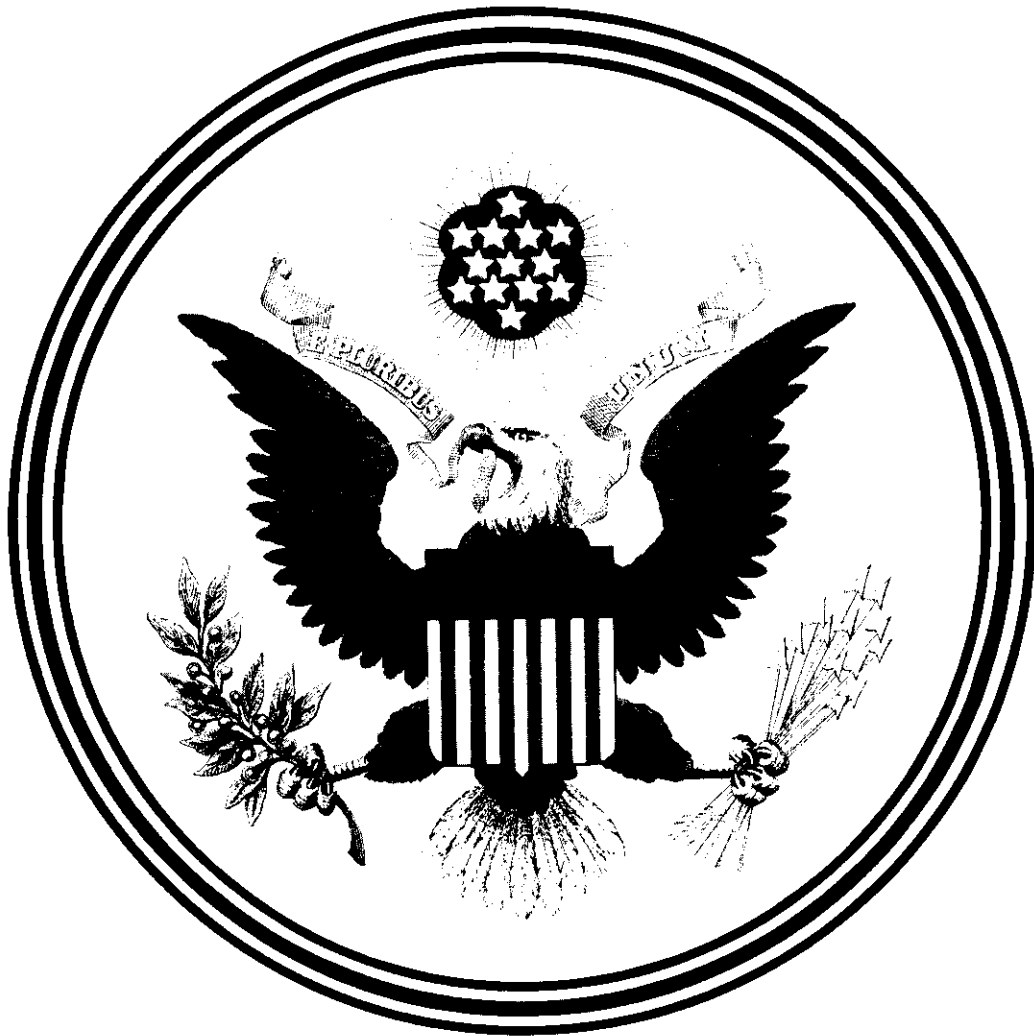
IT IS FURTHER ORDERED that the Plan shall be maintained on file in the permanent offices of the Clerk of Court for public inspection; that the Plan shall be in effect until amended by the Court; and that the Court may revise the Plan as it sees fit, subject to statutory requirements, and will provide due notice of any such revisions.

DATED this 22nd day of November, 1993.

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/s/ William D. Browning
William D. Browning, Chief Judge

**CIVIL JUSTICE EXPENSE
AND DELAY REDUCTION PLAN**



**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF ARIZONA**

CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN FOR THE DISTRICT OF ARIZONA

The United States District Court for the District of Arizona adopts this **CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN**, pursuant to **THE CIVIL JUSTICE REFORM ACT OF 1990**, 28 U.S.C. §471 *et seq.* The format of this Plan follows the Guidelines for Preparing CJRA Expense and Delay Reduction Plans published by the Judicial Conference Committee on Court Administration and Case Management in July, 1992.

Implementing a differentiated case management ("DCM") program, which is the heart of this Plan, is the direct and realistic remedy to delay problems to the extent they exist in this District. The DCM program, along with other components of this Plan, also address reduction of litigation costs.

This Plan shall apply to all civil cases filed on or after December 1, 1993, and may, at the discretion of the court, apply to cases then pending.

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FOREWORD

As stated in the aforementioned Guidelines, the Plan will "facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolution of civil disputes." Pg 1

PRINCIPLES AND GUIDELINES OF LITIGATION MANAGEMENT

The Plan considers the six litigation management principles and guidelines described in 28 U.S.C. §473(a), and pursuant to Guideline 3. Pg 2

LITIGATION MANAGEMENT TECHNIQUES

The Plan also considers the five litigation management techniques described in 28 U.S.C. §473(b), and pursuant to Guideline 3. Principles and techniques are discussed in the order presented by the statute; therefore, no appendix was compiled. Pg 5

IMPLEMENTATION

Responding to Guideline 5, implementation is outlined for each element of the Plan. Pg 6

CONTRIBUTIONS

A summary is provided, pursuant to Guideline 6, of the Plan's provisions for contributions by the court, the attorneys, litigants, Congress, and the executive branch. A statement is included regarding reduction of cost of litigation. Pg 8

RESPONSE TO ADVISORY GROUP'S RECOMMENDATIONS

The Plan was developed, as required by 28 U.S.C. §472(a) and according to Guideline 2, after consideration of the recommendations of the court's CJRA advisory group. Pg 10

CASELOAD INDICATORS AND TRENDS

According to Guideline 4, the Plan responds to the current state of the docket, as herein summarized, pursuant to 28 U.S.C. §474. Pg 13

AFTERWORD

Other compliance and administrative matters are discussed, as outlined in Guidelines 7 through 11. Pg 15

APPENDIX A Local Rule - Differentiated Case Management

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FOREWORD

Differentiated Case Management (28 U.S.C. §473(a)(1)) is the keystone to reducing delay and cost of civil litigation to the extent they exist in this District. Several other litigation management principles are also incorporated in this program, specifically:

- Early and ongoing judicial control of the pretrial process (28 U.S.C. §473(a)(2)) is established with distinct milestones, and firm dates for case management actions such as pretrial conferences, prescribed for each track.
- Case management conferences (28 U.S.C. §473(a)(3)) are provided for standard and complex cases, and are to be conducted before a judicial officer pursuant to Rule 16 of the Federal Rules of Civil Procedure.

DCM will be implemented by local rule. In conjunction with the program itself, a pending civil case reduction effort has been completed reducing the number of pending civil cases, assuring case management activity, and verifying scheduling information in all cases.

Pre-discovery disclosure of information (28 U.S.C. §473(a)(4)) has previously been governed by Local Rule 42.A. This court is in a state in which new discovery rules, similar to the proposed federal rules, have been recently enacted. The court therefore elects to defer discovery changes until there is more experience with the state's rules, and until Congress has acted on the proposed federal rule changes.

The prohibition of filing discovery motions unless counsel have met to confer on any discovery dispute (28 U.S.C. §473(a)(5)) will continue to be governed by Local Rule 11(j).

This District is one of ten pilot courts authorized voluntary, court-annexed arbitration, which has been in successful operation since February 1, 1992. Other alternative dispute resolution mechanisms suggested by 28 U.S.C. §473(a)(6) will be evaluated for future implementation pursuant to time-frames delineated in the section on implementation.

Additional amendments to local rules include (1) presumption of no oral argument on motions other than those which would be dispositive; and (2) requiring content of motions or stipulations for extensions of time to reflect the number of previous requests, (28 U.S.C. §473(b)(3)).

PRINCIPLES AND GUIDELINES OF LITIGATION MANAGEMENT
28 U.S.C. §473(a)

The Plan was developed after consideration of the recommendations of the court's CJRA Advisory Group and review of various case management principles now being used.

(1) DIFFERENTIATED CASE MANAGEMENT

Effective December 1, 1993, this court will enact a new local rule governing Differentiated Case Management ("DCM") (attached as Appendix A). Two projects have been underway which relate to implementation of DCM.

The first has been the aforementioned pending civil case reduction effort, now completed, reducing the number of pending civil cases, activating case management in cases which required added attention, and verifying or correcting scheduling information in all cases. Other results of this effort have been the development of improved internal case management/inventory reports, reports for internal monitoring of performance against track disposition goals, and clarification of responsibilities for case managers.

The second has been to draft the local rule, conduct en banc discussions for revision and final approval, submit it to the proper state bar committee for comment, schedule public hearings, and finally to enact a new local rule effective December 1, 1993. The local rule provides for 5 tracks:

Expedited cases, currently comprising 8%* of pending civil cases, are expected to be disposed of within 12 months of filing;

Arbitration cases, currently comprising 5% of the civil docket;

Prisoner Pro Se cases, currently comprising 37% of pending civil cases, are expected to be disposed of within 18 months;

Standard, currently comprising the majority of the remaining 50% of pending civil cases, are expected to be disposed of within 24 months; and

Complex cases, requiring innovative and extensive management techniques.

The District is currently, in large part, meeting the goals set forth above.

* All data used are as of 12/31/92.

(2) EARLY AND ONGOING JUDICIAL CONTROL OF PRETRIAL PROCESS

A number of the principles suggested in the Act regarding early judicial control are specifically incorporated:

- Requiring, by the local rule governing DCM, and pursuant to Rule 16 of the Federal Rules of Civil Procedure, the submission of a joint proposed scheduling order for standard and complex cases. A subsequent scheduling conference is also required, conducted before the judicial officer or, in the judicial officer's discretion, before his or her designee.
- Deadlines established by the court's scheduling order will be enforced.
- Standard scheduling orders will be issued for all cases.

The Local Rule also provides for use of participating Senior Judges to conduct trials to ensure firm trial dates.

(3) DISCOVERY/CASE MANAGEMENT CONFERENCES

Discovery and other case management conferences are provided for, in the local rule governing DCM, for cases assigned to the standard and complex tracks.

(4) VOLUNTARY EXCHANGE OF INFORMATION

Until adoption of a mandatory policy, the court will evaluate the need for voluntary disclosure on a case by case basis.

(5) DISCOVERY MOTIONS

A prohibition on consideration of discovery motions exists in Local Rule 11(j) which states:

No discovery motion will be considered or decided unless a statement of moving counsel is attached thereto certifying that after personal consultation and sincere efforts to do so, counsel have been unable to satisfactorily resolve the matter.

(6) ALTERNATIVE DISPUTE RESOLUTION

The District of Arizona wholeheartedly supports alternative dispute resolution ("ADR") mechanisms, with its existing arbitration program a positive endorsement of the

benefits of ADR. The District is also cognizant of the resources required to develop and maintain any new programs, and has defined a position specifically assigned to development, implementation, and administration of both ADR programs and DCM.

It is anticipated that this court will next consider mediation, which is particularly suitable for contract dispute cases, currently comprising 18% of pending civil cases. Other ADR techniques will be considered as delineated in the implementation section following.

Settlement conferences are frequently conducted and continue to be an effective dispute resolution tool.

LITIGATION MANAGEMENT TECHNIQUES
28 U.S.C. §473(b)

(1) Joint discovery-case management plans may be required at the discretion of the District Judge.

(2) Parties, if not appearing in person, shall be represented at pretrial conferences by an attorney with authority to bind the client to the procedural conduct of the case.

(3) Amendments to Local Rules 11 governing motions, and 39 regarding stipulations (attached as Appendix B), mandate that a request for an extension of any deadline must indicate how many motions or stipulations for extensions have been filed previously.

(4) Early neutral evaluation is included within alternative dispute resolution implementation plan.

(5) When required by the court, representatives of parties having authority to bind that party shall appear personally or by telephone at any settlement conference.

(6) Other features:

(A) The court's response to "rotation" or sequestration of time for judges to concentrate on civil cases, as recommended by the Advisory Group, is discussed in a later section. The court will give consideration to this concept of sequestration of time consistent with other docket demands.

(B) The District adopts the Proposed Standards of Professional Conduct within the Seventh Federal Judicial Circuit, such standards to be administered by an existing peer review committee. Attorneys applying for admission to practice in this District will certify that they have read and will abide by those standards. Attorneys already admitted to practice will be notified of the General Order adopting this Plan, and provided a copy of the standards.

IMPLEMENTATION

To realize the full benefit of DCM, it is critical to have a full-time court administration professional who is responsible for administration of all case management activities; such responsibilities to include enforcement of policies and procedures, identification and resolution of problems, providing training and information to both internal and external participants, and refining the program as necessary.

Three of the tracks are administrative in nature (expedited, prisoner pro se, and arbitration), with central management by the clerk's office expected. Overseeing compliance with defined case management requirements for the other two tracks (standard and complex) is also necessary for an effective program. The utility of standard scheduling orders, the modified reports, and other aspects of DCM must also be evaluated periodically. It is anticipated that this function will require approximately 100% of an administrator's time at initial implementation, decreasing to 70% during the first year, and 60% thereafter.

As DCM becomes established, this staff person will then be responsible for research, development, and subsequent implementation of the next two or more phases of alternative dispute resolution programs. As additional programs are instituted, it will become increasingly important both to coordinate their operation internally, and to inform and assist the bar and the public in understanding the applicability and benefit of each.

The Plan therefore contemplates that a position exists for development, implementation, and subsequent administration of DCM and ADR.

SCHEDULE

DCM

| | |
|---|------------------------------|
| Civil Case Reduction Effort | |
| Research and development | December, 1992 - March, 1993 |
| Civil case reduction efforts | April - September, 1993 |
| Reports, system documentation and training completed | July 1, 1993 |
| Generate baseline reports | September 1, 1993 |

| | |
|---------------------------|------------------|
| Local Rule governing DCM | |
| Draft and submit to bench | June, 1993 |
| Submit to State Bar | October, 1993 |
| Public Hearing | November, 1993 |
| Effective date | December 1, 1993 |

OTHER LOCAL RULE CHANGES

Other reforms will also be implemented by amendment to or repeal of applicable rules, following the above schedule for enactment of the new local rule governing DCM.

ADR

Alternative Dispute Resolution programs will be expanded according to the following schedule:

| | |
|--------------------------------|---------------|
| Mediation | |
| Research and development | January, 1994 |
| Implementation (target) | July, 1994 |
| Other mechanisms (such as ENE) | |
| Research and development | January, 1995 |
| Implementation (target) | July, 1995 |

CONTRIBUTIONS

In promulgating this Plan, the court makes substantial contributions to reducing cost and delay by:

- participating in Rule 16 conferences,
- using standard scheduling orders,
- continuing efforts to reach disposition goals, and
- strictly enforcing deadlines set.

Contributions by the court are also administrative in nature; specifically the development of improved case management tools such as reports, documented procedures for differentiated case management, establishment of goals, and devices to measure performance of new programs designed to meet those goals.

Attorneys are expected to conform to this Plan, general orders, and amended rules, and continue to provide constructive input. Contributions by the bar will also include participation on advisory committees, such as those appointed to develop additional alternative dispute resolution programs.

The litigants' contributions must be consistent with the requirements placed upon their counsel and themselves as defined in this Plan.

The Plan does not specifically include any contribution from the Congress, the executive branch, or any other agency. This district does, however, encourage those bodies to consider the recommendations included in the reports and plans of the early implementation districts, as summarized in the CJRA Report entitled "Development and Implementation of Plans by Early Implementation Districts and Pilot Courts," prepared by the Judicial Conference of the United States, dated June 1, 1992. This district concurs in particular that:

- "federalization" of crimes has and will increasingly have an adverse effect on the civil docket;

- criminal procedural requirements, such as the Speedy Trial Act, the sentencing guidelines, and mandatory minimum sentences are sources of delay in civil litigation; and
- assessment and full consideration of the impact on the Judiciary of proposed legislation may avoid adding sources of delay.

With a high percentage of prisoner pro se litigation, this court also requests that efforts by the Judicial Conference and various study committees continue to find a resolution to the delay caused by the growing number of cases and petitions filed by prisoner pro se litigants.

REDUCING COST OF CIVIL LITIGATION

The court feels that implementation of this District's CJRA Plan will have a positive impact on the cost of civil litigation, but is unable with particularity to predict the extent of this reduction.

RESPONSE TO ADVISORY GROUP'S RECOMMENDATIONS

Recommendation #1: Sequestration of Time for Civil Litigation.

This recommendation, also proposed in other districts, does not appear to be feasible in this District, given the case load differences between the two divisional offices. Nonetheless, members of the court agree to try to informally implement this solution.

Recommendation #2: Abolish Local Rule 42.

Local Rule 42 is repealed. The court concurs with the Advisory Group's conclusion that pretrial conferences and orders can and should be achieved under Rule 16 of the Federal Rules of Civil Procedure, as amended. In addition to the pretrial order requirements contained in the standard scheduling orders, the judge may order at the scheduling conference, or later, compliance with a pretrial order which may include some components of the present Local Rule 42.C., or some variation thereof.

As to the various other subsidiary subjects of this recommendation:

- The court, through this Plan and the enactment of the new local rule governing differentiated case management, requires that a Rule 16 conference be conducted in standard and complex cases by the assigned judicial officer, or under specified circumstances, by his or her designee.
- Pursuant to recommendations of the Advisory Group, amendments to local rules address requests for continuances or extensions.
- Other management devices, particularly those pertaining to management of trials, are not included in this Plan.

Recommendation #3: Differentiated Case Management.

Differentiated Case Management ("DCM"), is the focus of this Plan, and is addressed in detail in a previous section and by the new local rule.

Recommendation #4: Changes in the Discovery System.

There are two distinct features of discovery reform, each giving rise to several considerations, such as uniformity between state and federal rules, and conformity with proposed amendments to federal discovery rules.

Regarding mandatory disclosure, the court concurs with the Advisory Group's conclusion that, with both the current state of the State's new discovery rules, and the status of amendments proposed by the Federal Rules Advisory Committee, enacting a mandatory disclosure rule as part of this Plan is premature.

Regarding imposition of discovery restrictions, such limitations are included in the new local rule governing DCM. Limitations on discovery do not conflict with Arizona rules of procedure, with the exception that no time limit is imposed for depositions, nor is there a limit on items allowed in requests for production.

Recommendation #5: Greater use of Magistrate Judges.

Unless additional Magistrate Judges are authorized for this District, the current workload of the existing Magistrate Judges will not allow for additional civil responsibilities. The Advisory Group's Report and supporting data clearly demonstrate that the Magistrate Judges' duties are substantially petty offense and felony pretrial matters, as well as prisoner pro se litigation matters. Magistrate Judges are also active in settlement conferences.

The recommendation of expanding use of Magistrate Judges to conduct civil trials is well taken and presents a desirable objective, and the court will seek to encourage the use of Magistrate Judges as trial judges in civil cases, consistent with their availability. The court appreciates the Advisory Group's support of adding Magistrate Judges; the court will continue to recruit highly qualified candidates from the civil bar or bench.

Recommendation #6: Alternative Dispute Resolution Program.

The court concurs with the Advisory Group's belief that "the development of an effective ADR referral mechanism requires some careful thought ..." and will develop other alternative dispute resolutions programs. The court accepts the value of other, non-adjudicative forms of alternative dispute resolution, and will embrace the concept of a multi-door courthouse, offering the full complement of such mechanisms, when available resources make it practical to do so. A projected schedule for later phases of CJRA activity is included in the section on implementation.

Recommendation #7: Standards of Civility.

The court adopts as standards of civility the Proposed Standards for Professional Conduct within the Seventh Federal Judicial Circuit, as described in the foregoing section on Litigation Management Techniques, Paragraph (7)(B). All judicial officers will strive to make requirements of civility pervasive throughout legal education and training as an ongoing process.

CASELOAD INDICATORS AND TRENDS

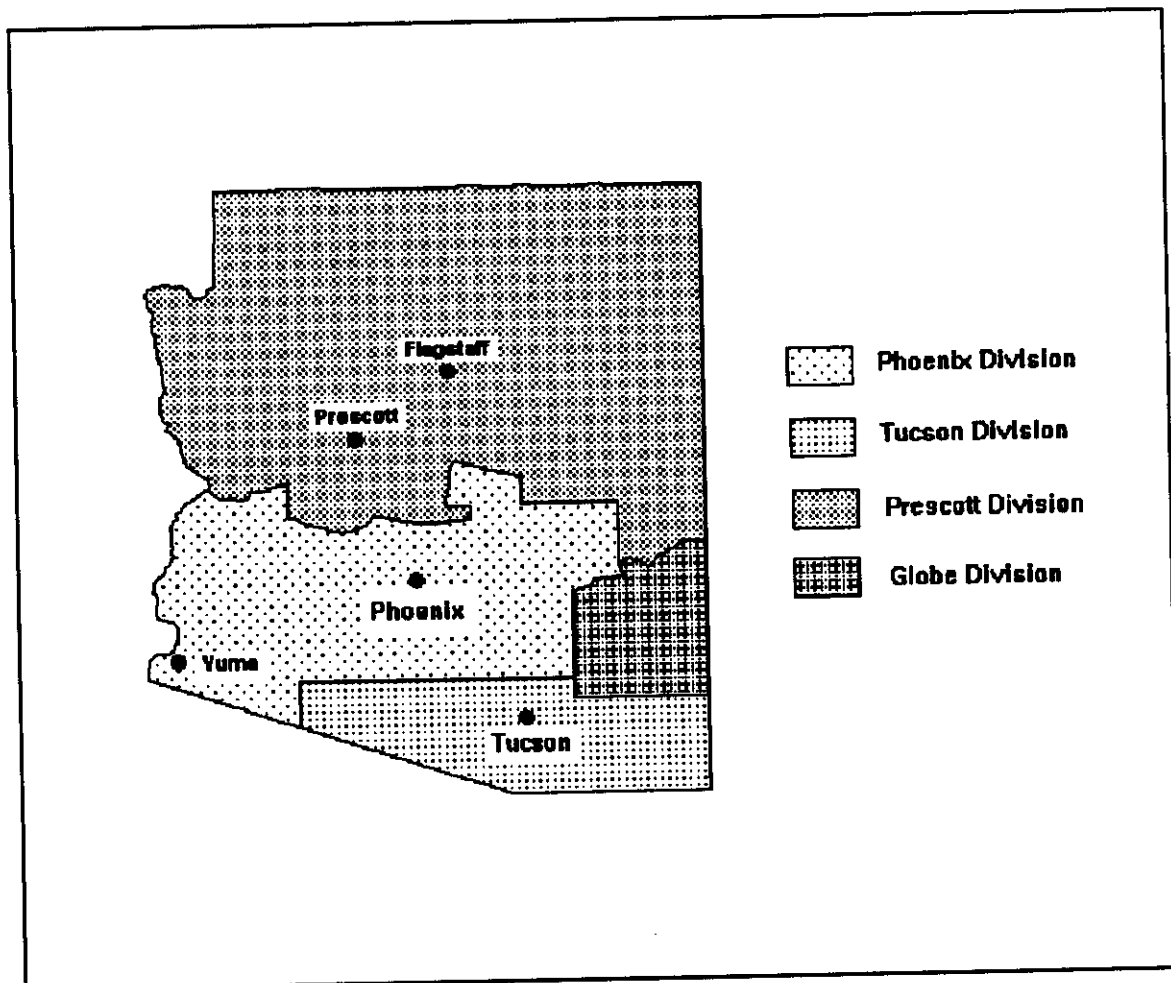
"The problems of cost and delay in civil litigation in any United States District Court must be addressed in the context of the full range of demands made on the district court's resources by both civil and criminal matters." Section 102 of Public Law 101-650

This Congressional finding acknowledges that each district is unique; this District has the added consideration that, while operating well as one cohesive, collegial organization, each division has its own distinct demands. While the Advisory Group's Report discusses various characteristics of this District, such as diversity, demographics, the percentage of prisoner cases, and the impact of the criminal caseload, it is also incumbent on the court to develop a program or programs which will serve the District as a whole, acknowledging the divisional differences.

- **Phoenix** has the majority of civil case filings, with a significant increase in calendar year 1992, generally in prisoner pro se, other civil rights, other contract, and student loan cases. There has been a slight decrease in criminal case filings over the past 3 years. Illustrative of the types and complexity of cases filed in each division is that, while the number of trials in Phoenix are 37% of the total, those trials account for 60% of total trial hours.
- **Tucson** has the majority of criminal case filings, with a dramatic increase in the past 4 years. There was also a substantial increase in civil case filings in calendar year 1992, also in prisoner pro se, and other federal statute cases.

| | <u>1989</u> | <u>1990</u> | <u>1991</u> | <u>1992</u> | (91-92) <u>% Change</u> |
|--------------------------------|--------------|--------------|--------------|--------------|----------------------------|
| <u>CIVIL FILINGS</u> | | | | | |
| Tucson | 792 | 818 | 808 | 927 | 14.7 |
| Phoenix | <u>2,185</u> | <u>2,056</u> | <u>2,108</u> | <u>2,504</u> | <u>18.8</u> |
| District | <u>2,977</u> | <u>2,874</u> | <u>2,916</u> | <u>3,431</u> | <u>17.7</u> |
| <u>CRIMINAL FILINGS</u> | | | | | |
| Tucson: Cases | 595 | 667 | 745 | 1,008 | 35.3 |
| Def's | 843 | 1,017 | 1,038 | 1,624 | 56.5 |
| Phoenix: Cases | 419 | 491 | 472 | 470 | - 0.04 |
| Def's | <u>588</u> | <u>750</u> | <u>729</u> | <u>732</u> | <u>0.04</u> |
| District: Cases | 1,014 | 1,158 | 1,217 | 1,478 | 21.5 |
| Def's | 1,431 | 1,767 | 1,767 | 2,356 | 33.3 |

**UNITES STATES DISTRICT COURT
FOR THE
DISTRICT OF ARIZONA**



In **Phoenix** there are 5 Active and 3 Senior District Judges, and 2 Magistrate Judges. The Phoenix division also supports Prescott, with an increasing number of cases tried there. One Magistrate Judge residing in Flagstaff is primarily responsible for cases filed in the northern tier of counties in the state, and also shares duties in Phoenix.

In **Tucson** there are 3 Active and 1 Senior District Judges, and 2 Magistrate Judges. A part-time Magistrate Judge, responsible only for criminal cases, resides in Yuma.

The district is also fortunate to receive the services of a number of visiting judges.

AFTERWORD

Any member of the Advisory Group who would like to remain in that advisory capacity will be welcomed to do so. Others may also be invited to participate in at least an annual assessment of performance of the Plan, pursuant to 28 *U.S.C.* §475. It is anticipated that smaller groups of advisors will be recruited for committees to develop additional alternative dispute resolution programs.

All active CJRA Advisory Group members will continue to receive all communications from the clerk's office relative to the state of the dockets, particularly periodic analysis of differentiated case management and arbitration, the 1992 and subsequent annual reports of the District, as well as any pertinent information from the Administrative Office of the Courts or the Federal Judicial Center.

This Plan is adopted by general order; differentiated case management, motions practices, and pretrial order requirements are adopted by enactment, amendment, or repeal of local rules, and standards of civility are adopted by the general order adopting this Plan.

APPENDIX A

**RULES OF PRACTICE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF ARIZONA**

**PROPOSED ADDITION TO
RULES WITH PARTICULAR APPLICATION
TO CIVIL PROCEEDINGS**

**DIFFERENTIATED CASE MANAGEMENT
("DCM")**

PROPOSED LOCAL RULE GOVERNING DCM

(a) **Statement of Purpose and Scope of Authority.** Pursuant to the Civil Justice Reform Act, 28 U.S.C §471 *et seq.*, the United States District Court for the District of Arizona has, effective December 1, 1993, established a Differentiated Case Management ("DCM") system, which screens cases for complexity, assigns cases to specific tracks based on that complexity, and manages cases to disposition according to predetermined milestones established for respective track.

(b) Tracks

(1) Expedited.

(A) Assignment.

(i) Cases are assigned to this track by the Clerk of Court based on nature of suit, and are those which usually are resolved on the pleadings. Natures of suit include:

- Bankruptcy Appeals;
- Social Security;
- Student Loan, Veteran's Benefits,
and other recovery; and
- Forfeiture/Penalty actions.

(ii) Other cases may be assigned to this track based on complexity, determined either by the parties at filing, or by agreement of the assigned Judge and parties at a preliminary scheduling conference.

(iii) A case in a nature of suit listed in (i) above, but which may have more complex issues or facts, may likewise be assigned to another track.

(B) **Management.** A preliminary scheduling conference is not required; however, a scheduling order shall be issued.

(C) **Discovery.** Limited discovery is presumed to include interrogatories of up to fifteen (15) single part questions, and no more than one (1) fact witness deposition per party.

(2) **Arbitration.** Cases are assigned to this track by the Clerk of Court, and are managed pursuant to 28 U.S.C. §651 *et seq.* and Local Rule 56, which define discovery and other deadlines. Cases which are removed from arbitration shall be reassigned to the appropriate track based on the criteria herein.

(3) **Prisoner Pro Se.**

(A) **Assignment.** Cases are assigned to this track by the Clerk of Court based on nature of suit, and are administered by the District's Prisoner Pro Se section. Natures of suit include General Habeas Corpus cases, Motions to Vacate Sentence, Mandamus petitions, and §1983 and Bivens actions.

(B) **Management.** §1983 and Bivens actions shall be managed according to the following deadlines. The service order shall include a scheduling order, setting:

(i) maximum date to effect service, pursuant to Rule 4j of the Federal Rules of Civil Procedure or 60 days from filing of service order, whichever is later;

(ii) discovery cutoff 150 days from the maximum service date determined according to (i) above; and

(iii) dispositive motion or proposed pretrial order filing deadline 180 days from the maximum service date determined according to (i) above.

(4) **Standard.**

(A) **Assignment.** Cases which do not meet the criteria of the Expedited, Arbitration, or Prisoner/Pro Se tracks, and are not determined complex, are assigned to this track.

(B) Management.

(i) A preliminary scheduling conference, pursuant to Rule 16 of the Federal Rules of Civil Procedure, shall be scheduled within 180 days of filing, and conducted by the assigned Judge or his or her designee.

(ii) The scheduling order issued from this conference, in accordance with Rule 16(b)(4) of the Federal Rules of Civil Procedure, shall include dates for filing a joint proposed pretrial order and conducting a pretrial conference. The trial date shall be set at the pretrial conference. If the assigned Judge is unable to try the case on that date, the case shall be referred to the Chief Judge for reassignment to any available Judge.

(C) Discovery. Presumptive limits on discovery for cases on the Standard track are 40 single-part question interrogatories, and 8 fact-witness depositions per party.

(5) Complex

(A) Assignment. Complex cases are those which require extensive judicial involvement, and shall be so designated by the judge, counsel, and parties.

(B) Management. A preliminary scheduling conference shall be conducted before the assigned Judge for all cases on this Complex track, and an initial scheduling order, in accordance with 16(b) of the Federal Rules of Civil Procedure, shall be issued following such conference.

(C) Multidistrict litigation. An attorney filing a complaint, answer, or other pleading involving a case which may involve multidistrict litigation (see U.S.C.A. §1407), shall, with the filing of the pleading, file in writing with the Clerk of the Court and the Judge to whom the case has been assigned, a paper describing the nature of the case listing the title(s) and number(s) of any other related case(s) filed in this or other jurisdictions.

APPENDIX B

PROPOSED AMENDMENTS TO LOCAL RULES

Rule 11.

MOTIONS - CIVIL AND CRIMINAL

...

(f) Oral Arguments. Motions shall be set for oral argument only upon the request of a party, and by permission of the Court. Any party desiring oral argument, having been granted permission by the Court, shall secure a time of hearing from the Judge assigned to the case ...

...

(h) Submitted Motions. ~~If neither party requests oral argument as provided in subparagraph (f), the~~ It is presumed that motions will be considered and decided without oral argument, unless otherwise ordered requested and permitted by the Court.

...

(n) Motions/Requests for Extension of Time. The time prescribed for the doing of any act may be enlarged by the Court. Such order must be made before the expiration of the time prescribed, except by motion where the failure to act was the result of excusable neglect. It shall be the duty of the party moving for an extension of time, whether by motion or stipulation, to disclose the existence of all previous extensions which have been granted. Immediately below the title of such motion or stipulation, there shall also be included a statement indicating whether it is the first, second, third, etc. requested extension, i.e.: "STIPULATION FOR EXTENSION OF TIME TO ANSWER (Second Request)."

...

Rule 36.

COMPLEX CIVIL CASES

Repeal in its entirety
(Language added to proposed local rule governing DCM)

Rule 39.

STIPULATIONS OF COUNSEL

...

(d) Any stipulation for an extension of time is subject to the requirements prescribed in Rule 11(n) Motions/Requests for Extension of Time, of these Rules.

Rule 42.

PRETRIAL PROCEDURE AND TRIAL SETTING

Repeal in its entirety

Rule 56.

ARBITRATION

...

(b)(1) Exclusions. add subparagraph: cases which, pursuant to the local rule governing DCM, are assigned to the Expedited Track of the DCM program; specifically, Bankruptcy Appeals (422), Social Security (861 through 865), Student Loan, VA, and other Recovery (150, 152, 153), and Forfeiture and Penalty (610 through 690) cases.

...

APPENDIX C

I. CASELOAD INDICATORS

A. CIVIL FILINGS.

After several years of decline, and then a small increase in 1991, the District had a large increase in civil filings in 1992.

CIVIL FILINGS TREND

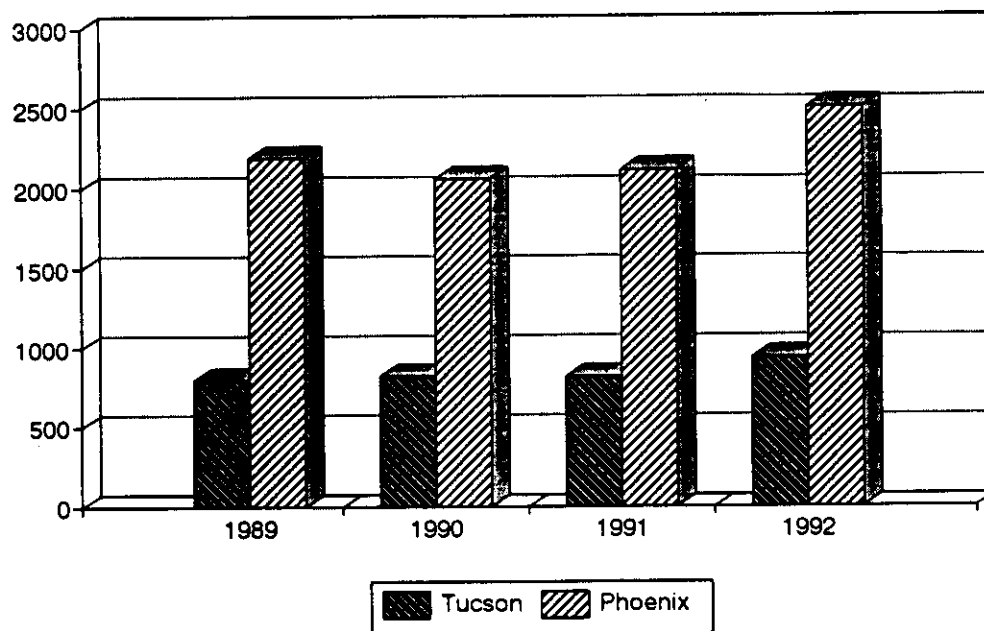


TABLE 6

| CASES FILED | | | | | '91-'92 |
|-------------|------|------|------|------|----------|
| | 1989 | 1990 | 1991 | 1992 | % Change |
| Tucson | 792 | 818 | 808 | 927 | 14.7 |
| Phoenix | 2185 | 2056 | 2108 | 2504 | 18.8 |
| DISTRICT | 2977 | 2874 | 2916 | 3431 | 17.7 |

B. CASE TYPES FILED.

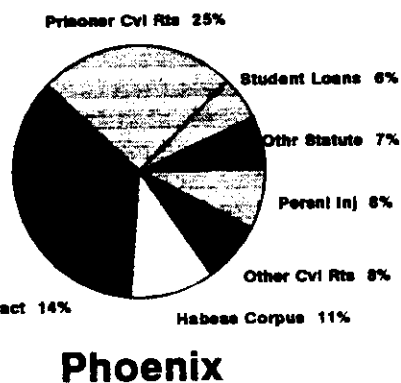
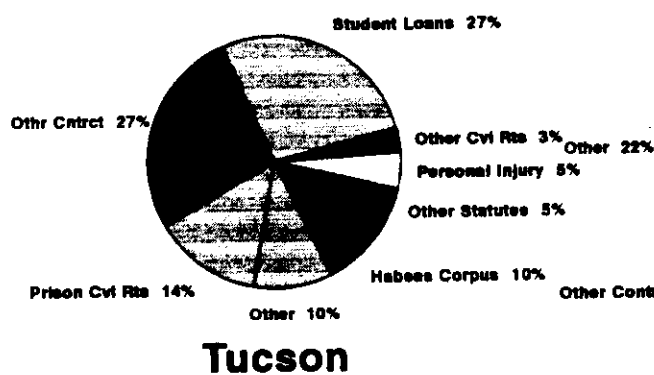
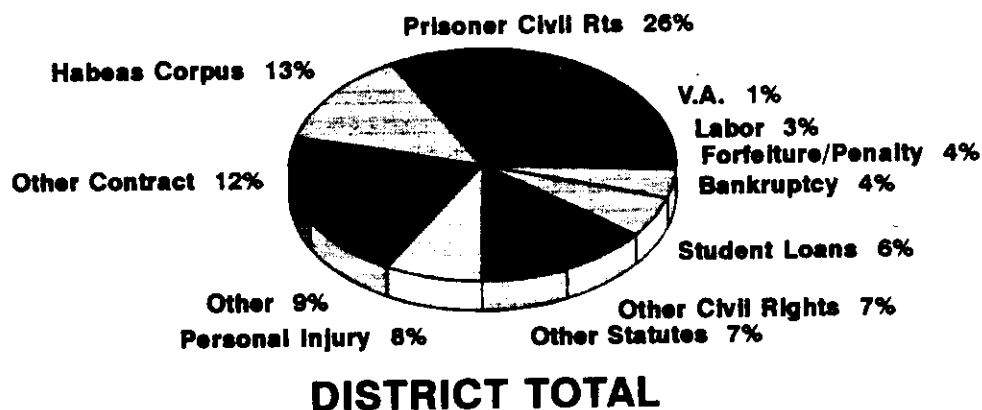
During 1992 there were sharp increases in student loans, personal injury, habeas corpus, prisoner civil rights, and other civil rights case types. Significant decreases were experienced in VA benefits and Miller Act cases.

TABLE 7

| CIVIL CASE TYPE | PHX | | | TUC | | | TOTAL 1992 | % of TOTAL |
|-----------------------|------|------|------|------|------|------|---------------|---------------|
| | 1990 | 1991 | 1992 | 1990 | 1991 | 1992 | | |
| Recovery VA Benefits | 61 | 52 | 26 | 39 | 31 | 17 | 43 | 1.25 |
| Student Loans | 77 | 75 | 143 | 18 | 34 | 49 | 192 | 5.60 |
| Social Security | 31 | 27 | 33 | 2 | 3 | 6 | 39 | 1.14 |
| Bankruptcy | 74 | 112 | 112 | 24 | 43 | 26 | 138 | 4.02 |
| Forfeiture/Penalty | 57 | 44 | 65 | 58 | 50 | 57 | 122 | 3.56 |
| Miller Act | 64 | 36 | 18 | 13 | 9 | 2 | 20 | 0.58 |
| Other Contract | 351 | 289 | 351 | 86 | 78 | 48 | 399 | 11.63 |
| Personal Injury | 141 | 166 | 194 | 66 | 62 | 84 | 278 | 8.10 |
| Other Civil Rights | 128 | 112 | 196 | 43 | 49 | 56 | 252 | 7.34 |
| Labor | 85 | 96 | 87 | 15 | 28 | 19 | 106 | 3.09 |
| Negotiable Instrument | 35 | 22 | 23 | 1 | 3 | 5 | 28 | 0.82 |
| Habeas Corpus | 166 | 172 | 270 | 160 | 137 | 173 | 443 | 12.91 |
| Prisoner Civil Rights | 459 | 543 | 635 | 216 | 197 | 250 | 885 | 25.79 |
| Personal Property | 20 | 26 | 33 | 4 | 10 | 9 | 42 | 1.22 |
| Real Property | 65 | 56 | 52 | 8 | 11 | 23 | 75 | 2.19 |
| Property Rights | 60 | 55 | 67 | 9 | 8 | 8 | 75 | 2.19 |
| Taxes | 0 | 35 | 31 | 0 | 6 | 10 | 41 | 1.19 |
| Other Statutes | 182 | 190 | 168 | 56 | 49 | 85 | 253 | 7.37 |
| TOTAL | 2056 | 2108 | 2504 | 818 | 808 | 927 | 3431 | |

Civil Case Filing Types, 1992

U.S. District Court of Arizona



C. CIVIL CASE TERMINATIONS AND PENDING CASES.

Terminations increased by 20.4% in 1992, as compared to the filings increase of 17.7%. Despite this positive showing, the civil pending caseload still grew in 1992.

**CIVIL CASE TERMINATION TREND
DISTRICT TOTALS**

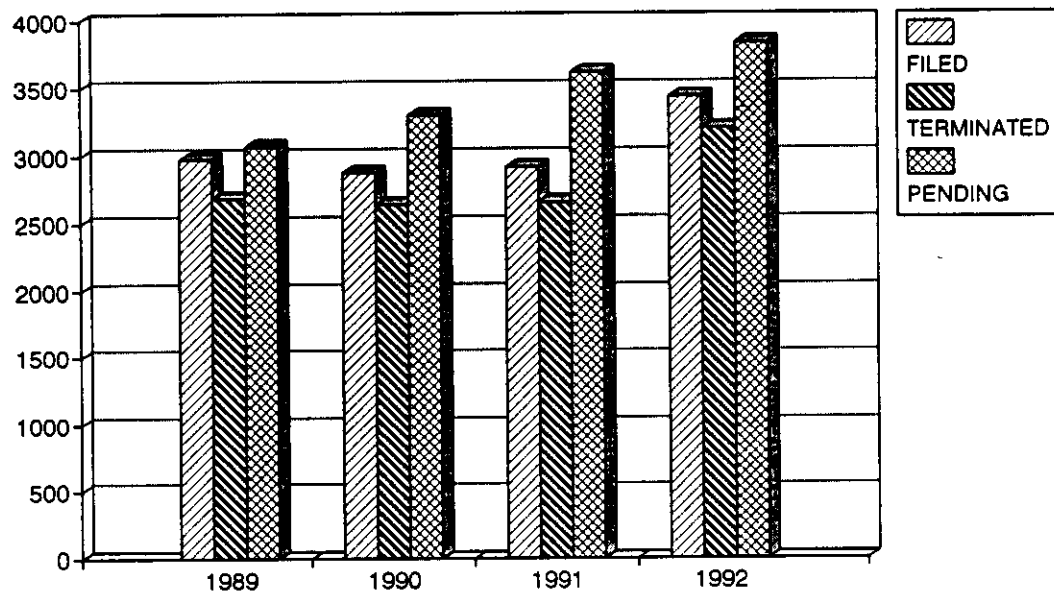


TABLE 8

| TERMINATED | | | | | '91-'92 |
|------------|------|------|------|------|----------|
| | 1989 | 1990 | 1991 | 1992 | % Change |
| Tucson | 798 | 774 | 742 | 851 | 14.7 |
| Phoenix | 1884 | 1865 | 1908 | 2340 | 22.6 |
| DISTRICT | 2682 | 2639 | 2650 | 3191 | 20.4 |
| PENDING | | | | | '91-'92 |
| | 1989 | 1990 | 1991 | 1992 | % Change |
| Tucson | 645 | 685 | 745 | 818 | 9.8 |
| Phoenix | 2417 | 2607 | 2869 | 3010 | 4.9 |
| DISTRICT | 3062 | 3292 | 3614 | 3828 | 5.9 |

D. CIVIL PENDING CASE AGE ANALYSIS

Over 80% of the pending cases were less than 2 years old at the end of 1992. Although a positive figure, efforts are underway to improve on this in 1993.

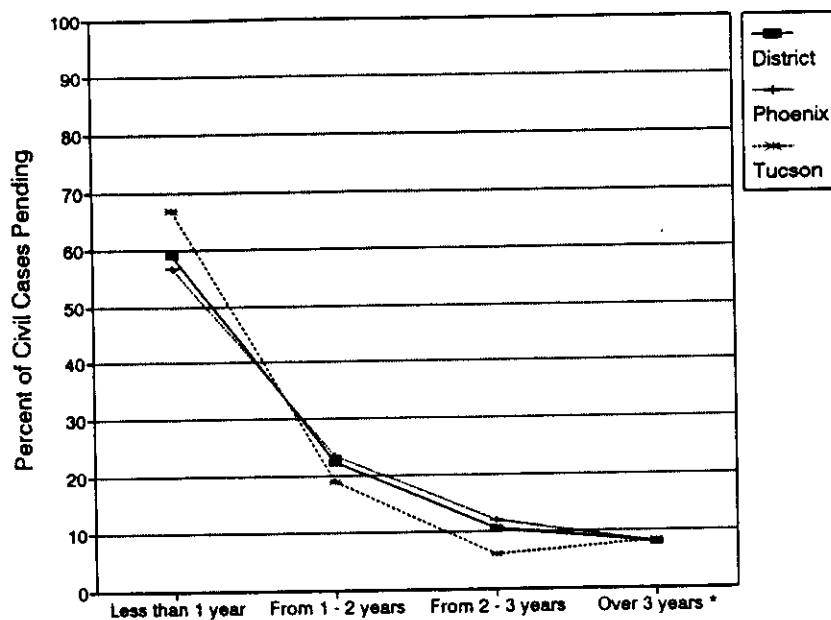


TABLE 9

| | 1992 | % of TTL |
|------------------|------|-------------|
| PHOENIX | | |
| Less than 1 year | 1537 | 56.7 |
| From 1 - 2 years | 637 | 23.5 |
| From 2 - 3 years | 323 | 11.9 |
| Over 3 years * | 214 | 7.9 |
| | 2711 | |
| TUCSON | | |
| Less than 1 year | 549 | 66.9 |
| From 1 - 2 years | 155 | 18.9 |
| From 2 - 3 years | 49 | 6.0 |
| Over 3 years | 68 | 8.3 |
| | 821 | |
| DISTRICT | | |
| Less than 1 year | 2086 | 59.1 |
| From 1 - 2 years | 792 | 22.4 |
| From 2 - 3 years | 372 | 10.5 |
| Over 3 years * | 282 | 8.0 |
| | 3532 | |

*Excludes 296 ARCOR cases

E. CRIMINAL FILINGS.

The Tucson Division had very large increases in criminal caseload in 1992, particularly in the number of defendants charged. In contrast the Phoenix Division saw no appreciable change over 1991's data.

CRIMINAL FILINGS TREND

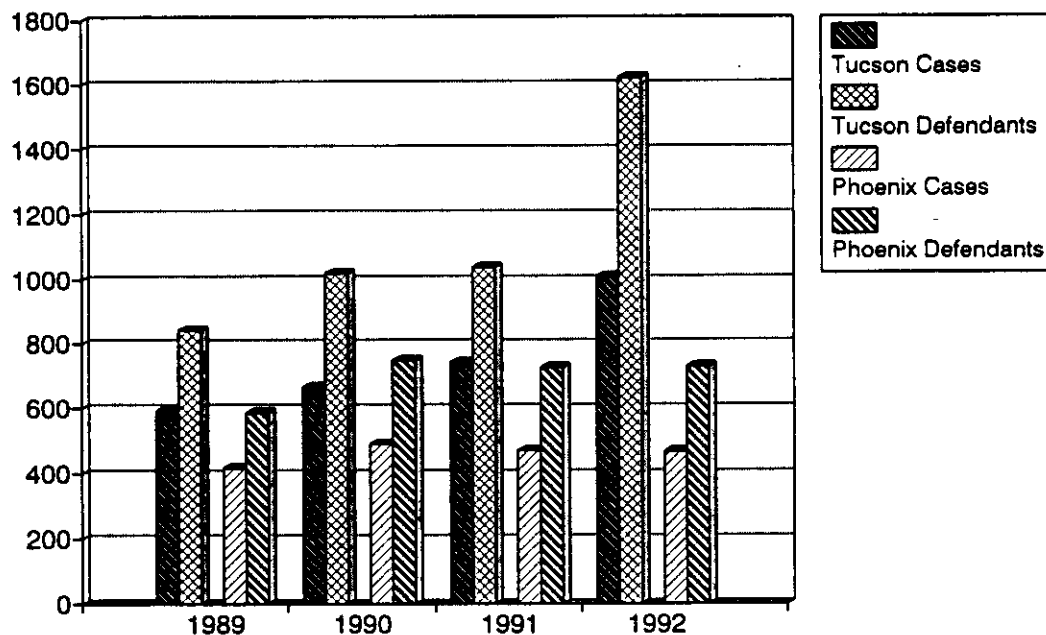


TABLE 10

| FILINGS/ DEFENDANTS | | | | | '91-'92 |
|------------------------|------|------|------|------|----------|
| | 1989 | 1990 | 1991 | 1992 | % Change |
| Tucson Cases | 595 | 667 | 745 | 1008 | 35.3 |
| Defendants | 843 | 1017 | 1038 | 1624 | 56.5 |
| Phoenix Cases | 419 | 491 | 472 | 470 | -0.4 |
| Defendants | 588 | 750 | 729 | 732 | 0.4 |
| DISTRICT Cases | 1014 | 1158 | 1217 | 1478 | 21.4 |
| Defendants | 1431 | 1767 | 1767 | 2356 | 33.3 |

F. CASE TYPES FILED.

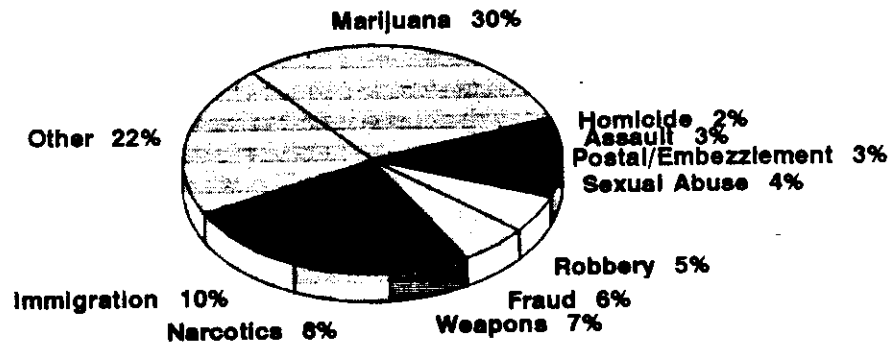
Large increases were experienced in all but five types of cases from 1991 to 1992. Only homicides saw a large drop.

TABLE 11

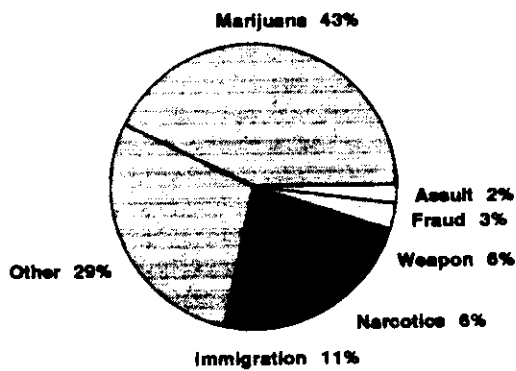
| CRIMINAL CASE TYPE | PHX | | | TUC | | | TOTAL 1992 | % of TOTAL |
|---------------------|------|------|------|------|------|------|---------------|---------------|
| | 1990 | 1991 | 1992 | 1990 | 1991 | 1992 | | |
| Marijuana | 23 | 15 | 18 | 348 | 430 | 430 | 448 | 30.31 |
| Narcotics | 40 | 53 | 58 | 43 | 54 | 64 | 122 | 8.25 |
| Embezzlement | 38 | 10 | 10 | 5 | 4 | 6 | 16 | 1.08 |
| Fraud | 53 | 39 | 55 | 16 | 15 | 30 | 85 | 5.75 |
| Forgery/Counterfeit | 16 | 17 | 11 | 0 | 2 | 9 | 20 | 1.35 |
| Immigration | 60 | 33 | 40 | 130 | 84 | 115 | 155 | 10.49 |
| Postal | 19 | 16 | 21 | 0 | 4 | 1 | 22 | 1.49 |
| Robbery | 38 | 51 | 64 | 6 | 11 | 15 | 79 | 5.35 |
| Assault | 20 | 20 | 16 | 14 | 9 | 21 | 37 | 2.50 |
| Sexual Abuse | 51 | 38 | 54 | 10 | 10 | 11 | 65 | 4.40 |
| Weapons/Firearms | 22 | 47 | 44 | 33 | 27 | 57 | 101 | 6.83 |
| Homicide | 15 | 27 | 20 | 5 | 7 | 7 | 27 | 1.83 |
| Other | 86 | 106 | 59 | 67 | 88 | 242 | 301 | 20.37 |
| TOTAL | 481 | 472 | 470 | 677 | 745 | 1008 | 1478 | |

Criminal Case Filing Types, 1992

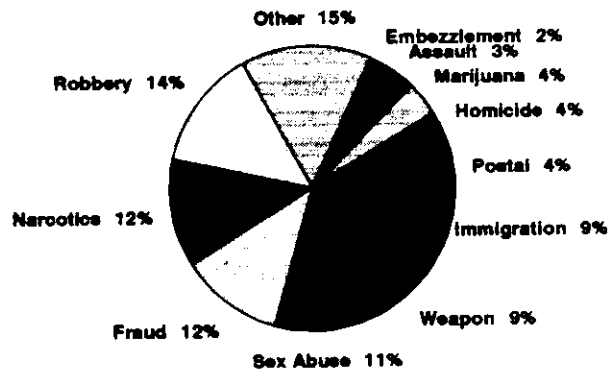
U.S. District Court of Arizona



DISTRICT TOTAL



Tucson



Phoenix

G. CRIMINAL TERMINATIONS AND PENDING CASES.

As in civil cases, the District's increase in criminal terminations (26.4%) was larger in 1992 than the criminal case filings increase (21.4%).

CRIMINAL CASE TERMINATION TREND DISTRICT TOTALS

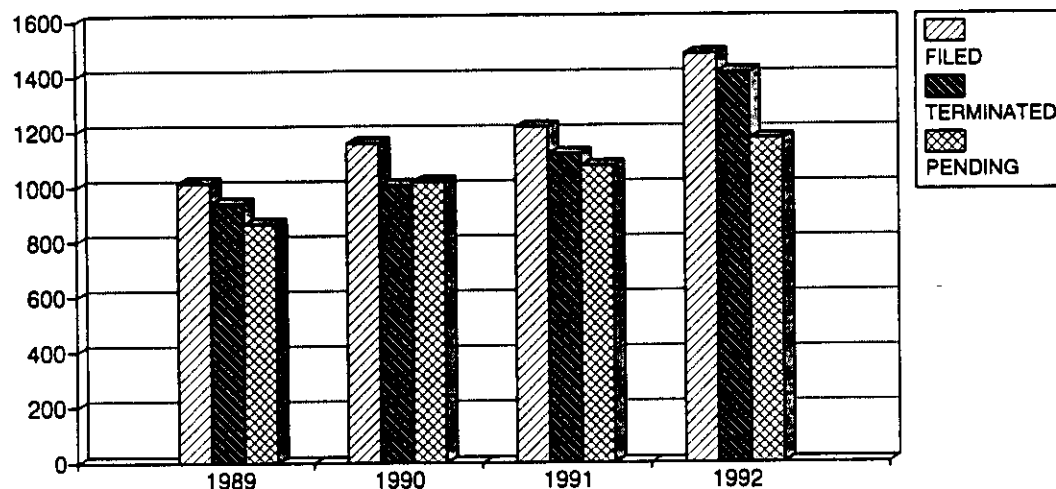


TABLE 12

| | 1989 | 1990 | 1991 | 1992 | '91-'92 % Change |
|----------------|------|------|------|------|---------------------|
| TERMINATED | | | | | |
| Tucson Cases | 574 | 584 | 691 | 918 | 32.9 |
| Defendants | 824 | 844 | 988 | 1221 | 23.6 |
| Phoenix Cases | 365 | 422 | 425 | 493 | 16.0 |
| Defendants | 526 | 606 | 615 | 736 | 19.7 |
| DISTRICT Cases | 939 | 1006 | 1116 | 1411 | 26.4 |
| Defendants | 1350 | 1450 | 1603 | 1957 | 22.1 |

| | 1989 | 1990 | 1991 | 1992 | '91-'92 % Change |
|----------------|------|------|------|------|---------------------|
| PENDING | | | | | |
| Tucson Cases | 520 | 603 | 614 | 703 | 14.5 |
| Defendants | 728 | 901 | 947 | 1349 | 42.4 |
| Phoenix Cases | 345 | 414 | 460 | 470 | 2.2 |
| Defendants | 556 | 700 | 818 | 813 | -0.6 |
| DISTRICT Cases | 865 | 1017 | 1074 | 1173 | 9.2 |
| Defendants | 1284 | 1601 | 1765 | 2162 | 22.5 |

H. TEN-YEAR FILINGS TREND. Total filings rose sharply in 1992, greatly accelerating a three year trend. Filings are now at their highest level in ten years.

ANNUAL FILINGS LAST 10 YEARS

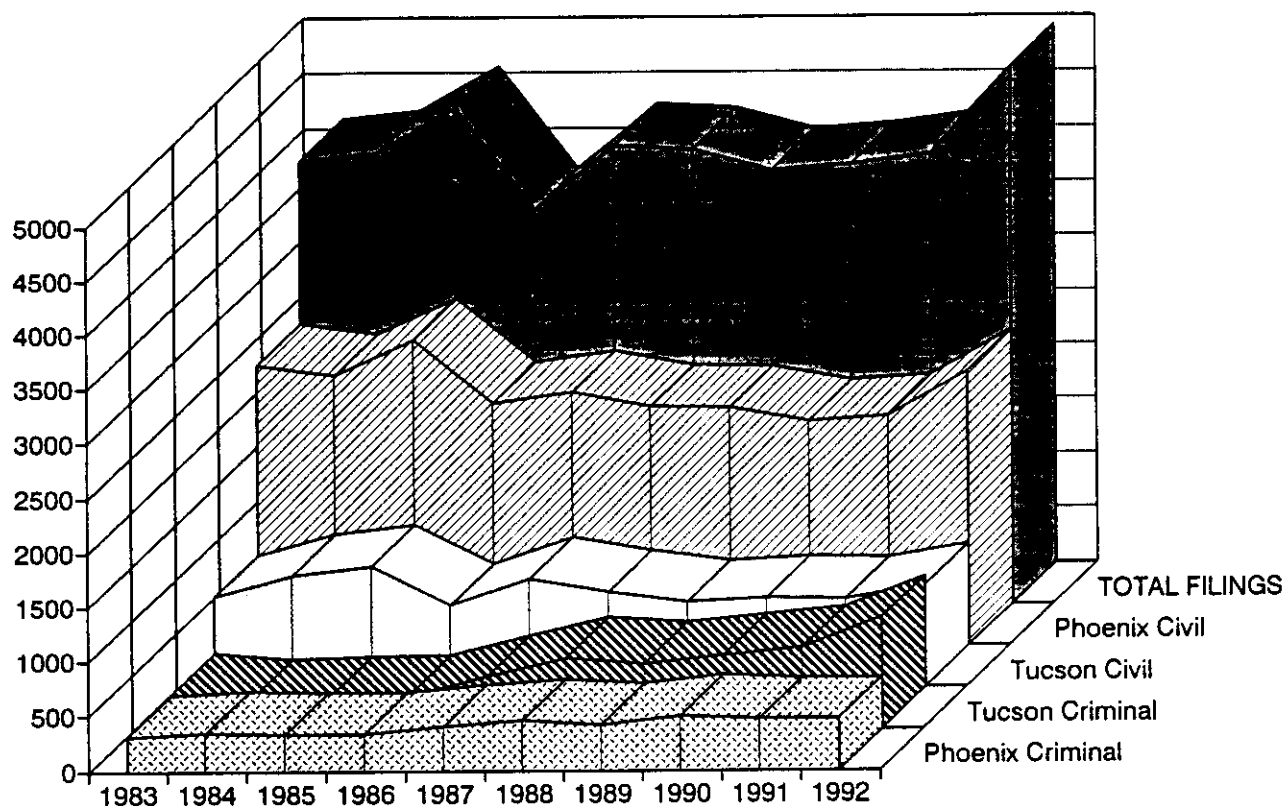
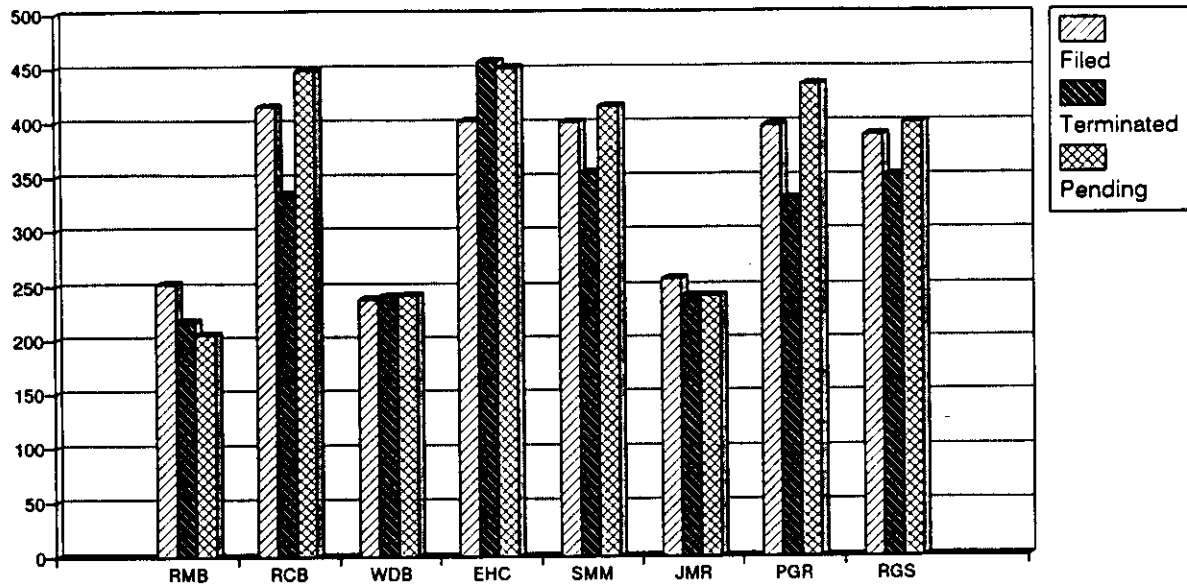


TABLE 13

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 |
|---------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Phoenix | 2590 | 2491 | 2813 | 2228 | 2327 | 2196 | 2185 | 2056 | 2108 | 2504 |
| Tucson | 850 | 1038 | 1124 | 770 | 1005 | 879 | 792 | 818 | 808 | 927 |
| CIVIL TTL | 3440 | 3529 | 3937 | 2998 | 3332 | 3075 | 2977 | 2874 | 2916 | 3431 |
| Phoenix | 318 | 354 | 333 | 337 | 403 | 452 | 419 | 491 | 472 | 470 |
| Tucson | 320 | 271 | 288 | 300 | 476 | 646 | 595 | 667 | 745 | 1008 |
| CRIMINAL TTL | 638 | 625 | 621 | 637 | 879 | 1098 | 1014 | 1158 | 1217 | 1478 |
| Phoenix | 2908 | 2845 | 3146 | 2565 | 2730 | 2648 | 2604 | 2547 | 2580 | 2974 |
| Tucson | 1170 | 1309 | 1412 | 1070 | 1481 | 1525 | 1387 | 1485 | 1553 | 1935 |
| GRAND TOTAL | 4078 | 4154 | 4558 | 3635 | 4211 | 4173 | 3991 | 4032 | 4133 | 4909 |

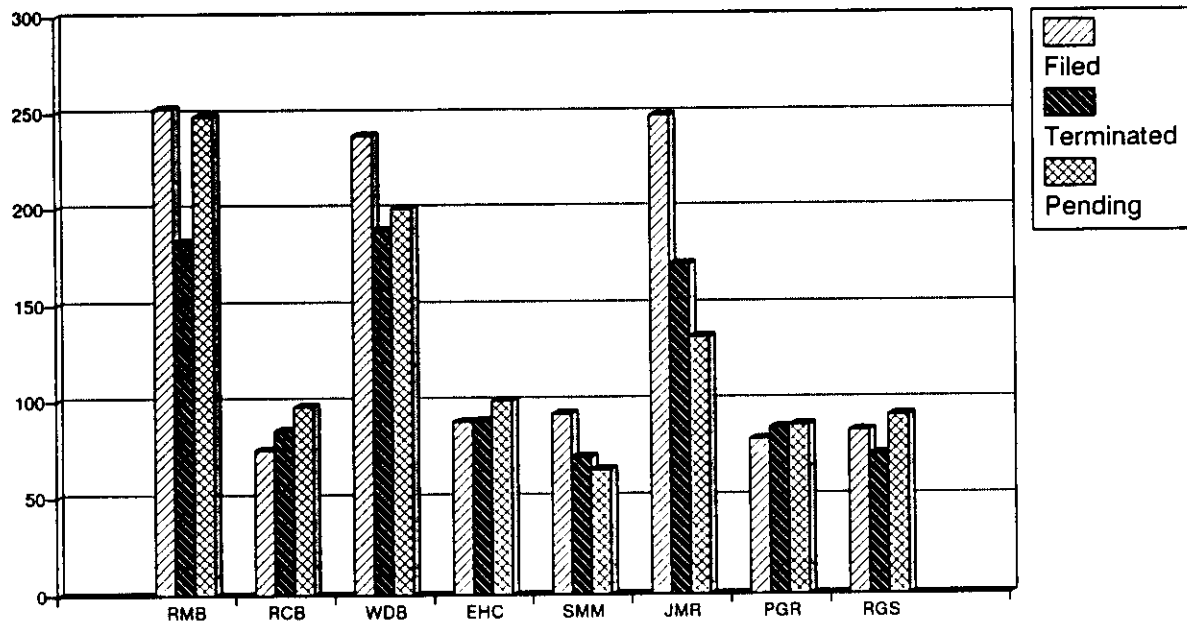
I.

Civil Caseload Per Judge 1992

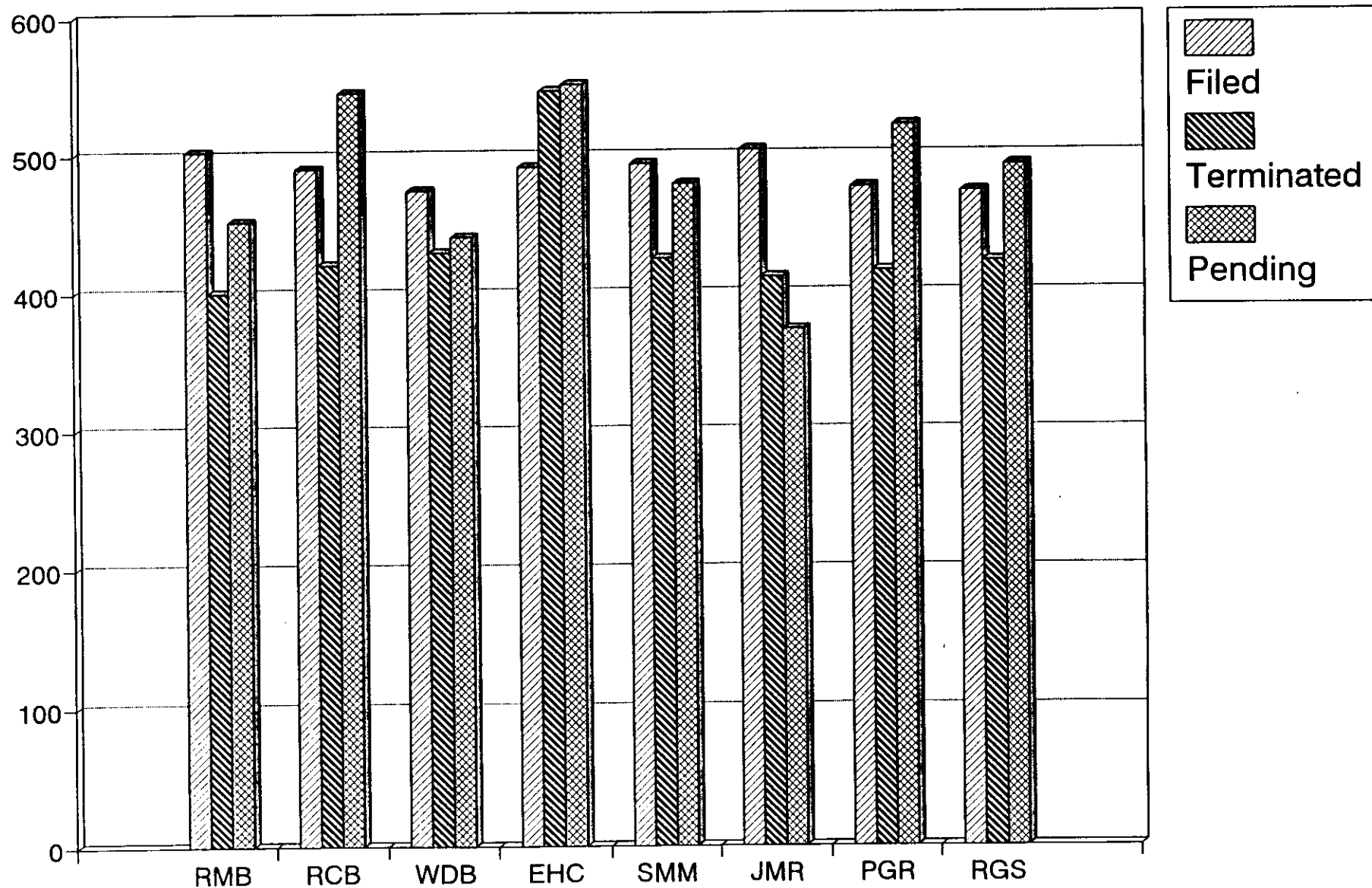


RCB pending cases do not include 296 ARCOR cases

Criminal Caseload Per Judge 1992



Total Caseload Per Judge 1992



VI. UNITED STATES MAGISTRATE JUDGES WORKLOAD

A. TITLE 28 U.S.C. DUTIES

TABLE 14
FULL-TIME MAGISTRATE JUDGES

| | 1990 | | | 1991* | | | 1992* | | | '91-'92 |
|--------------------------|------|-----|-------|-------|-----|-------|-------|-----|-------|----------|
| | TUC | PHX | TOTAL | TUC | PHX | TOTAL | TUC | PHX | TOTAL | % Change |
| Applications | | | | | | | | | | |
| Search Warrants | 264 | 538 | 802 | 302 | 544 | 846 | 330 | 514 | 844 | -0.2 |
| Summons | 7 | 30 | 37 | 4 | 53 | 57 | 40 | 46 | 86 | 50.9 |
| Arrest Warrants | 105 | 239 | 344 | 109 | 191 | 300 | 129 | 178 | 307 | 2.3 |
| Initial Appearances | | | | | | | | | | |
| Rule 5, 9, 40, & Prob. | 1114 | 809 | 1923 | 1180 | 559 | 1739 | 1440 | 568 | 2008 | 15.5 |
| Material Witness | 72 | 60 | 132 | 92 | 27 | 119 | 93 | 36 | 129 | 8.4 |
| Preliminary Examinations | 59 | 223 | 282 | 32 | 150 | 182 | 26 | 137 | 163 | -10.4 |
| Other Felony | | | | | | | | | | |
| Bail Reviews | 372 | 136 | 508 | 392 | 133 | 525 | 504 | 110 | 614 | 17.0 |
| Grand Jury Returns | 38 | 62 | 100 | 62 | 76 | 138 | 61 | 80 | 141 | 2.2 |
| Arraignments | 800 | 697 | 1497 | 716 | 640 | 1356 | 958 | 560 | 1518 | 11.9 |
| Detention Hearings | 780 | 313 | 1093 | 821 | 309 | 1130 | 1084 | 353 | 1437 | 27.2 |
| Judgment Debtor | 4 | 27 | 31 | 5 | 22 | 27 | 5 | 9 | 14 | -48.1 |
| Other Matters | | | | | | | | | | |
| Depositions/Video | 27 | 37 | 64 | 13 | 16 | 29 | 29 | 3 | 32 | 10.3 |

* In 1991, Magistrate Judge Verkamp became full-time. The data from his workload are included with Phoenix Division figures for 1991 and 1992, rather than with part-time Magistrate Judge figures.

B. MISDEMEANOR AND PETTY OFFENSES

TABLE 15
FULL-TIME MAGISTRATE JUDGES

| | TUC | 1990 PHX | TOTAL | TUC | 1991* PHX | TOTAL | TUC | 1992* PHX | TOTAL | '91-'92 % Change |
|-----------------------------------|-----|-------------|-------|------|--------------|-------|------|--------------|-------|---------------------|
| Petty Offenses | 383 | 123 | 506 | 333 | 739 | 1072 | 647 | 614 | 1261 | 17.6 |
| CVB Matters | | | | | | | | | | |
| Total Number Arizona Citations | --- | --- | N/A | --- | --- | 10542 | --- | --- | 9557 | -9.3 |
| Number of Scheduled Appearance | 877 | 855 | 1732 | 1009 | 5337 | 6346 | 1298 | 4907 | 6205 | -2.2 |
| Number of Arrest Warrants | 164 | 300 | 464 | 163 | 1752 | 1915 | 267 | 1238 | 1505 | -21.4 |
| Misdemeanor/Petty Matters | | | | | | | | | | |
| Nonappearance Dismissal | 333 | 527 | 860 | 250 | 1027 | 1277 | 339 | 994 | 1333 | 4.4 |
| Decline to Consent | 77 | 10 | 87 | 11 | 50 | 61 | 1 | 9 | 10 | -83.6 |
| Defendants Imprisoned | 232 | 7 | 239 | 177 | 36 | 213 | 195 | 87 | 282 | 32.4 |
| Probation Violations | 26 | 1 | 27 | 4 | 19 | 23 | 11 | 56 | 67 | 191.3 |
| Probation Revocations | 22 | 5 | 27 | 18 | 9 | 27 | 25 | 41 | 66 | 144.4 |
| Misdemeanor/Petty Pleas | 297 | 33 | 330 | 194 | 991 | 1185 | 246 | 790 | 1036 | -12.6 |
| Sentencings | 212 | 38 | 250 | 257 | 442 | 699 | 348 | 708 | 1056 | 51.1 |
| Warrants, Affdvt Existing Warrant | 5 | 164 | 169 | 1 | 123 | 124 | 4 | 81 | 85 | -31.5 |
| Probation Modification | 25 | 0 | 25 | 19 | 41 | 60 | 16 | 104 | 120 | 100.0 |
| Appointment of Counsel | 41 | 42 | 83 | 18 | 34 | 52 | 20 | 60 | 80 | 53.8 |
| Initial Appearances | 196 | 5 | 201 | 320 | 1066 | 1386 | 308 | 841 | 1149 | -17.1 |
| Search Warrant Returns | 217 | 206 | 423 | 171 | 207 | 378 | 201 | 320 | 521 | 37.8 |

* In 1991, Magistrate Judge Verkamp became full-time. The data from his workload are included with Phoenix Division figures for 1991 and 1992, rather than with part-time Magistrate Judge figures.

C. PRISONER AND CIVIL CASES

TABLE 16
FULL-TIME MAGISTRATE JUDGES

| | 1990 | | | 1991* | | | 1992* | | | '91-'92 |
|----------------------------------|------|------|-------|-------|------|-------|-------|------|-------|----------|
| | TUC | PHX | TOTAL | TUC | PHX | TOTAL | TUC | PHX | TOTAL | % Change |
| State Habeas Corpus | | | | | | | | | | |
| Full Review, No Hearing | 0 | 46 | 46 | 11 | 69 | 80 | 3 | 50 | 53 | -33.8 |
| Full Hearing | 0 | 13 | 13 | 0 | 4 | 4 | 0 | 2 | 2 | -50.0 |
| Federal Habeas Corpus | | | | | | | | | | |
| Full Review, No Hearing | 0 | 9 | 9 | 0 | 14 | 14 | 0 | 20 | 20 | 42.9 |
| Full Hearing | 0 | 5 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Civil Rights | | | | | | | | | | |
| Full Review, No Hearing | 0 | 29 | 29 | 28 | 11 | 39 | 0 | 1 | 1 | -97.4 |
| Full Hearing | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | |
| Other Matters | | | | | | | | | | |
| Non-Dispositive Prisoner Orders | 41 | 1548 | 1589 | 6 | 1692 | 1698 | 0 | 2017 | 2017 | 18.8 |
| Non-Dispositive Prisoner Motions | 10 | 51 | 61 | 14 | 55 | 69 | 30 | 73 | 103 | 49.3 |
| Social Security Appeals | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Other Matters | 31 | 8 | 39 | 161 | 270 | 431 | 19 | 658 | 677 | 57.1 |

* In 1991, Magistrate Judge Verkamp became full-time. The data from his workload are included with Phoenix Division figures for 1991 and 1992, rather than with part-time Magistrate Judge figures.

D. PART-TIME MAGISTRATE JUDGE WORKLOAD - YUMA

TABLE 17

PART-TIME MAGISTRATE JUDGE

| | 1990 | 1991* | 1992* | '91-'92 % Change |
|-----------------------------------|------|-------|-------|---------------------|
| Applications | | | | |
| Search Warrants | 21 | 25 | 46 | 84.0 |
| Arrest Warrants | 71 | 38 | 26 | -31.6 |
| Initial Appearances | | | | |
| Rule 5, 9, & 40 | 153 | 248 | 267 | 7.7 |
| Material Witness | 9 | 9 | 25 | 177.8 |
| Preliminary Examinations | | | | |
| Rule 5.1 & 40 or Waiver | 0 | 0 | 13 | ---- |
| Other Felony | | | | |
| Bail Reviews | 0 | 4 | 20 | 400.0 |
| Grand Jury Returns | 0 | 0 | 2 | --- |
| Arraignments | 0 | 0 | 16 | --- |
| Other Matters | 2 | 2 | 1 | -50.0 |
| Petty Offenses | 1589 | 931 | 704 | -24.4 |
| CVB Matters | | | | |
| Number of Scheduled Appearances | | 192 | 114 | -40.6 |
| Number of Arrest Warrants | 885 | 77 | 31 | -59.7 |
| Misdemeanor/Petty Matters | | | | |
| Nonappearance Dismissal | 218 | 37 | 2 | -94.6 |
| Decline to Consent | 31 | 38 | 46 | 21.1 |
| Defendants Imprisoned | 676 | 491 | 486 | -1.0 |
| Probation Violations | 8 | 3 | 6 | 100.0 |
| Misdemeanor/Petty Pleas | 375 | 245 | 107 | -56.3 |
| Sentencings | 25 | 22 | 70 | 218.2 |
| Warrants, Affdvt Existing Warrant | 4 | 3 | 0 | --- |
| Probation Modification | 35 | 4 | 2 | -50.0 |
| Initial Appearances | 198 | 248 | 126 | -49.2 |

*In 1991, Magistrate Judge Verkamp became a full-time Magistrate Judge.

The data for his workload are now included in full-time Magistrate Judge tables for 1991 and 1992, rather than here
The 1991 and 1992 data in this table are solely those of Magistrate Judge Irwin in Yuma.